

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	Case No. 2:09CR00302-CW
Plaintiff,	
v.	GOVERNMENT'S INITIAL RESPONSE TO
	DEFENDANT'S MOTION FOR A "FRUITS"
	HEARING
CLAUD R. KOERBER,	Judge Clark Waddoups
Defendant,	

The United States, by the undersigned AUSAs files this Notice of Intended Protocol relative to the Defendant's Motion for a Fruits Hearing (The case of *Kastigar v. United States*, 406 U.S. 441 (1972) deals with evidence obtained through a compulsion order abrogating the Fifth Amendment, and not evidence obtained in violation of the Due Process clause of the Fifth Amendment. Consequently the United States will not refer to the anticipated hearing as a "*Kastigar*" hearing).

The United States proposes the following protocol in order to protect the June 13, 2014 trial date. The United States will provide the Defendant and the Court with a proposed witness

list and a proposed exhibit list by May 21, 2014. This list will not be final as the need to add (or hopefully subtract) additional witnesses and exhibits will inevitably occur as the United States continues trial preparation. The proposed witness list will contain the dates the listed witnesses were interviewed. To the extent possible, the proposed Exhibit list will contain a description of each exhibit, the date when the United States acquired the exhibit, and the source of the exhibit. Both lists will also denote whether the witness or exhibit was mentioned by the Defendant in the suppressed statements. The United States believes this procedure will help the Court in conducting the hearing.

The United States will file its brief regarding the legal issues attendant to the hearing on or before May 23, 2014. By adopting this procedure, this matter can be resolved promptly in order to maintain the June 13, 2014, trial date.

DATED this 16th day of May, 2014.

DAVID B. BARLOW
United States Attorney

/s/ Stewart C. Walz
STEWART C. WALZ
Assistant United States Attorney